

UNITED STATES DISTRICT COURT  
 DISTRICT OF SOUTH DAKOTA  
 CENTRAL DIVISION

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DAVID PAUL TIMMONS,  Plaintiff, vs.  BRAD SCHREIBER, in his individual and official capacity; ESTATE OF BRAD SCHREIBER; and THE SCHREIBER LAW FIRM, PROF. L.L.C.,  Defendants.	3:24-CV-03024-RAL  ORDER DENYING MOTION FOR LEAVE TO AMEND COMPLAINT
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Plaintiff David Paul Timmons filed a pro se civil rights lawsuit. Doc. 1. This Court granted Timmons' motion for leave to proceed in forma pauperis, Doc. 6, and he timely paid the filing fee. This Court screened Timmons' complaint and dismissed his claims without prejudice for failure to state a claim upon which relief may be granted under 28 U.S.C. § 1915(e)(2)(B)(ii), Doc. 7, and judgment of dismissal was entered, Doc. 8. Timmons moves for leave to amend his complaint after judgment was entered. Doc. 10.

Timmons requests to amend under Rules 15 and 19 of the Federal Rules of Civil Procedure and this Court's Local Rule 15.1. Id. He cites to Foman v. Davis, 371 U.S. 178, 182 (1962), to support that “[t]his Court should grant leave to freely to amend a complaint.” Doc. 10 at 1. However, the United States Court of Appeals for the Eighth Circuit has instructed that it is inappropriate to grant a motion for leave to amend if “dismissal of the complaint also constitutes dismissal of the action.” Greier v. Mo. Ethics Comm'n, 715 F.3d 674, 677 (8th Cir. 2013) (citation modified). This Court entered judgment without prejudice against Timmons and thereby dismissed the entire action without prejudice. Doc. 8; see also Doc. 7 at 5–6. See Mountain Home Flight Serv., Inc. v. Baxter Cnty., 758 F.3d 1038, 1046 (8th Cir. 2014) (finding that the district

court did not abuse its discretion in denying a motion to amend the complaint after dismissing the action and declining to exercise supplemental jurisdiction over state-law claims). Thus, Timmons' motion to amend his complaint, Doc. 10, is denied. He is free to file a new complaint, paying the filing fee if he wishes, though it appears that he may have a statute of limitations issue at this point.

For good cause, it is

ORDERED that Timmons' motion for leave to amend his complaint, Doc. 10, is denied.

DATED July 25, 2025.

BY THE COURT:

  
ROBERTO A. LANGE  
CHIEF JUDGE